

#### § 1.725

all averments, the pleader may do so by general denial.

(d) Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damages, are deemed to be admitted when not denied in this responsive pleading.

(e) Affirmative defenses to allegations contained in the complaint shall be specifically captioned as such and presented separately from any denials made in accordance with paragraph (c) of this section.

[53 FR 11853, Apr. 11, 1988, as amended at 58 FR 25572, Apr. 27, 1993]

#### § 1.725 Cross complaints.

A cross complaint, seeking any relief within the jurisdiction of the Commission against any carrier which is a party (complainant or defendant) to the proceeding, may be filed by a defendant with its answer. For the purpose of this subpart, the term *cross complaint* shall include counterclaim.

[53 FR 11854, Apr. 11, 1988]

#### § 1.726 Replies.

Within 10 days after service of an answer containing affirmative defenses presented in accordance with § 1.724(e), a complainant may file and serve a reply, which shall be responsive to only those allegations contained in affirmative defenses.

[58 FR 25572, Apr. 27, 1993]

#### § 1.727 Motions.

(a) A request to the Commission for an order shall be by written motion, stating with particularity the grounds and authority therefor, and setting forth the relief or order sought.

(b) A motion that the allegations in the complaint be made more definite and certain shall be filed within 15 days after service of a complaint by the Commission.

(c) Where the matter involved in the motion is one of procedure or discovery, the moving party shall provide a proposed order for adoption, which appropriately incorporates the basis therefor.

(d) A party opposing any motion concerning procedure or discovery shall also provide a proposed order for adop-

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tion, which appropriately incorporates the basis therefor.

(e) Oppositions to motions may be filed within ten days after the motion is filed. Oppositions shall be limited to the specific issues and allegations contained in the motion; when a motion is incorporated in an answer to a complaint, an opposition to the motion shall not address any issues presented in the answer that are not also specifically raised in the motion.

(f) No reply may be filed to an opposition to a motion.

[53 FR 11854, Apr. 11, 1988, as amended at 58 FR 25572, Apr. 27, 1993]

#### § 1.728 Formal complaints not stating a cause of action; defective pleadings.

(a) Any document purporting to be a formal complaint which does not state a cause of action under the Communications Act will be dismissed. In such case, any amendment or supplement to such document will be considered a new filing which must be made within the statutory periods of limitations of actions contained in section 415 of the Communications Act.

(b) Any other pleading filed in a formal complaint proceeding not in conformity with the requirements of the applicable rules in this part may be deemed defective. In such case the Commission may strike the pleading or request that specified defects be corrected and that proper pleadings be filed with the Commission and served on all parties within a prescribed time as a condition to being made a part of the record in the proceeding.

[53 FR 11854, Apr. 11, 1988]

#### § 1.729 Interrogatories to parties.

(a) During the time period beginning with service of the complaint and ending 30 days after the date an answer is due to be filed, any party may serve any other party written interrogatories, to be answered in writing by the party served or, if the party served is a public or private corporation or partnership or association, by any officer or agent who shall furnish such information as is available to the party.

All interrogatories served on an opposing party shall be filed with the Commission at the time of service. Parties shall propound no more than 30 single interrogatories without prior Commission approval. Subparts of an interrogatory will be counted as separate interrogatories for purposes of compliance with this limit. This procedure may be used for the discovery of any nonprivileged matter which is relevant to the pleadings. Interrogatories may not be employed for the purpose of delay, harassment or to obtain information which is beyond the scope of permissible inquiry relating to the subject matter of the pleadings.

(b) Parties on whom interrogatories are served shall respond without waiting to be ordered to do so by the Commission. Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the person making them. The party on whom the interrogatories were served shall serve a copy of the answers and objections, if any, within 30 days after service of the interrogatories, except that a defendant may serve answers or objections within 15 days after filing its answer to the complaint, whichever period is longer. On proper motion being made, the Commission may allow a shorter or longer time for the filing of answers or objections.

(c) Where the responding party has failed to respond, or has objected, to any interrogatory, the party propounding the interrogatories may, within 15 days of the date the response was due if no response is filed or the date of service of the objection, move to compel a response thereto. The motion should state with specificity the relevance of and necessity for the requested information and must also comply with the requirements of § 1.727 of this part pertaining to motions generally. Alternately, the party may request that answers to interrogatories be discussed during a status conference, pursuant to § 1.733.

(d) Answers to interrogatories shall not be filed with the Commission un-

less so ordered by the Commission or its staff.

(e) The Commission may in its discretion limit the scope of permissible inquiry so that matters pertaining solely to the amount or computation of damages are not addressed until after a finding of liability has been made against the complainant. Inquiries that relate dually to liability and damages will be permitted during initial discovery conducted during the liability phase. If a bifurcated framework is implemented and a finding of liability is made, the parties shall, within 5 working days, inform the Commission whether they wish to defer damages discovery in order to enter negotiations for the purpose of settling their dispute. If the parties commence settlement negotiations, damages discovery shall not be undertaken prior to 20 days after release of the liability order.

[53 FR 11854, Apr. 11, 1988, as amended at 58 FR 25572, Apr. 27, 1993]

#### § 1.730 Other forms of discovery.

(a) If a party believes it needs to engage in some form of discovery other than by written interrogatories under § 1.729, including but not limited to the production of documents, the taking of depositions, or the propounding of additional interrogatories, the party may file a motion with the Commission requesting that such discovery be permitted. The motion should state with specificity the type of discovery requested, the information which is expected to be elicited, the relevance of such information to the resolution of the proceeding, and must also comply with the requirements of § 1.727 hereof, pertaining to motions generally. Such motions will not be routinely granted except for good cause shown.

(b) The party from whom the discovery is sought may file an opposition to a motion seeking discovery within 10 days after the motion is filed. No reply is permitted.

(c) Motions seeking discovery may be filed only during the period beginning with the service of a complaint and ending 30 days after the date an answer is filed or 15 days after responses to interrogatories under § 1.729 are filed, whichever period is longer, except where the movant demonstrates that